

PLANNING COMMISSION REPORT



MEETING DATE: April 19, 2006

ITEM NO. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT **Colaric Abandonment - 20-AB-2005**

REQUEST Request to consider the following:

1. Abandon 752.50-feet of right-of-way along the 12-foot wide alley located at the rear of lots 10 thru 15 of Villa Arcadia Two.
2. Abandon 174-feet of right of way along the 12-foot wide alley located west of lot 10 of Villa Arcadia Two.
3. Abandon 183.55-feet of right of way along the 16-foot wide alley located east of lot 15 of Villa Arcadia Two.

Related Policies, References:

General Plan, Master Circulation Plan

OWNERS Lot 10 Mr. & Mrs. Charles Golab, Lot 11 Mr. & Mrs. Fred Z. Board, Lot 12 Mr. & Mrs. Michael B. Dollin, Lot 13 Mr. & Mrs. John C. Colton, Lot 14, Mr. & Mrs. Wayne P. Colaric, Lot 15 Mr. & Mrs. William J. Leonetti and Mr. & Mrs. H. Edwin Johnson at 6436 E. Calle Del Media (Lombardi Estates)

APPLICANT CONTACT John Colton
480-967-8199

LOCATION 6446 - 6532 E. Calle Del Media

BACKGROUND

Background.

The subject alley was dedicated as part of the Villa Arcadia Two Plat in 1964 as Book 104 of Maps, Page 40, Maricopa County Records. Villa Arcadia Two was a replat of a 1948 subdivision call Lombardi Estates. The replat split 6 very long lots into the lots that currently exist along the south side of Exeter and along both sides of Calle Del Media. The 1964 plat contains a dedication that "... sets forth the location and gives the dimensions of the lots, streets and alleys constituting same and that each lot and street shall be known by the number or name given and respectively on said plat and hereby dedicates to the public for use as such the streets and alleys shown on said plat ...".

In 1964, the city's residential development standards included a requirement for provision of alleys in order to provide utility users, refuse collection, and vehicle access to the back of residential properties. Typical alley widths were 16', but there are alleys in the area that are as narrow as 8' wide. It is not clear why this particular alley is 12' in width, but the dedications on the plat and the



fact that alley corners are “clipped” to accommodate vehicular turning moments seems to anticipate public use of the alley. When the lots on both sides of the alley were developed, access to the lots was from the front of the lots and the vegetation in the alley was never removed. Only the north-south sections of the alley appear to have been actively used by vehicles. There are existing power poles approximately 15-20 feet apart and located along the subdivisions northern property line within the 12-foot wide portion of alley.

Zoning.

The site is zoned Single Family Residential District (R1-18) which allows for one dwelling unit per lot.

Context.

The subject portion of the Villa Arcadia II subdivision is located 163-feet east of 66th Street and north of East Calle Del Media. The alley is located along the rear of lots 10 thru 15, and along the west side of lot 10 and along the east side of lot 15.

The surrounding property is zoned Single Family Residential:

- North: Single Family Residential zoned R1-35
- South: Single Family Residential zoned R1-10
- East: Single Family Residential, County Island
- West: Single Family Residential, City of Phoenix

**APPLICANT’S
PROPOSAL****Purpose of Request.**

This request is to abandon the following portions of existing alley right-of-way:

- 752.50-feet of right-of-way along the 12-foot wide alley located at the rear of lots 10 thru 15 of Villa Arcadia Two.
- 174-feet of right of way along the 12-foot wide alley located west of lot 10 of Villa Arcadia Two.
- 183.55-feet of right of way along the 16-foot wide alley located east of lot 15 of Villa Arcadia Two.

The alley was dedicated on the Villa Arcadia Two Plat for the purpose of public utilities. The applicants claim that there is a lack of security, the alley is totally dark and burglars can easily access their property from the alley. On more than one occasion the neighbors have cleaned beer and wine containers from the alley as well as the experience of a bullet hole on the north-facing window. The northern portion of the alley has not been cleared or maintained.

Key Issues.**CITY IMPACT:**

- There will be no significant impact to the City as a result of this abandonment. The alley is not required for trash pick-up or emergency access.

PROPERTY OWNER IMPACT:

- The alley will no longer be available for public access.
- The abandoned alley right-of-way will be released to the property owners of Lots 10-15 Villa Arcadia II and the metes and bound lot

- (west of lot 10) of Lombardi Estates and incorporated into their lots. .
- The property owners currently using the alley will no longer have access (Lot 2 and Lot 6 Lombardi Estates).
- The property owner of Lot 4 Lombardi Estates intends to use a portion of the alley for access to a guest house with garage that is permitted and currently under construction.
- Existing power poles will remain but will be located in a utility easement provided within the rear yards of the property owners of Lots 11-15 on Calle Del Media Drive.

IMPACT ANALYSIS

Departmental Responses.

It is city policy to not support abandonment requests if an alley is being actively used or if the abandonment request is opposed by affected property owners. Both of the north-south portions of the alley are being used; and a permit has been legally issued for use of the east-west portion.

Policy Implications.

Alley are public right-of-ways. As long as there is evidence that the public right-of-way is being used, the City will not support the abandonment.

Community Involvement.

The City posted signage at the roadway alignments alerting neighbors in the area of the request. The applicant, through first class mailing, has notified the surrounding property owners within 750 feet. The applicant has held more than one community meeting to inform neighbors of their intent.

Staff has received several phone calls, as well as written correspondence supporting and objecting to the abandonment (See Attachment #8). The property owner of Lot 4 Lombardi Estates has formally stated his objection to this abandonment. In response to this objection, staff held several meetings with the property owners and their representatives to facilitate a resolution. At this time, the disagreement has not been resolved.

STAFF
RECOMMENDATION

Recommended Approach:

Staff recommends denial.

RESPONSIBLE
DEPT(S)
STAFF CONTACT(S)

Planning and Development Services Department

Greg Williams
Senior Planner
480-312-4205
E-mail: gwilliams@ScottsdaleAZ.gov

APPROVED BY



Greg Williams
Report Author



Lusia Galav, AICP
Current Planning Director

ATTACHMENTS

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Zoning Map
5. Right-of-Ways and Easements
6. City Notification Map
7. Neighborhood Comments

CASE 20-AB-2005

Department Issues Checklist

Transportation

☒ Do Not Support

Staff's position regarding abandonment requests has been to not support the abandonment unless all property owners with frontage favor the abandonment. Currently not all property owners along both sides of the alley support the abandonment.

Trails

☒ Support

There are no trail requirements at this location

Public Utilities

☒ Support

All utility companies have sent letters of support for this abandonment request with no reservations. There are existing utility poles in the alley with overhead power lines. If the abandonment is approved the utility poles as well as an easement will be provided within the rear yards of the applicants residing on Calle Del Media Drive.

Emergency/Municipal Services

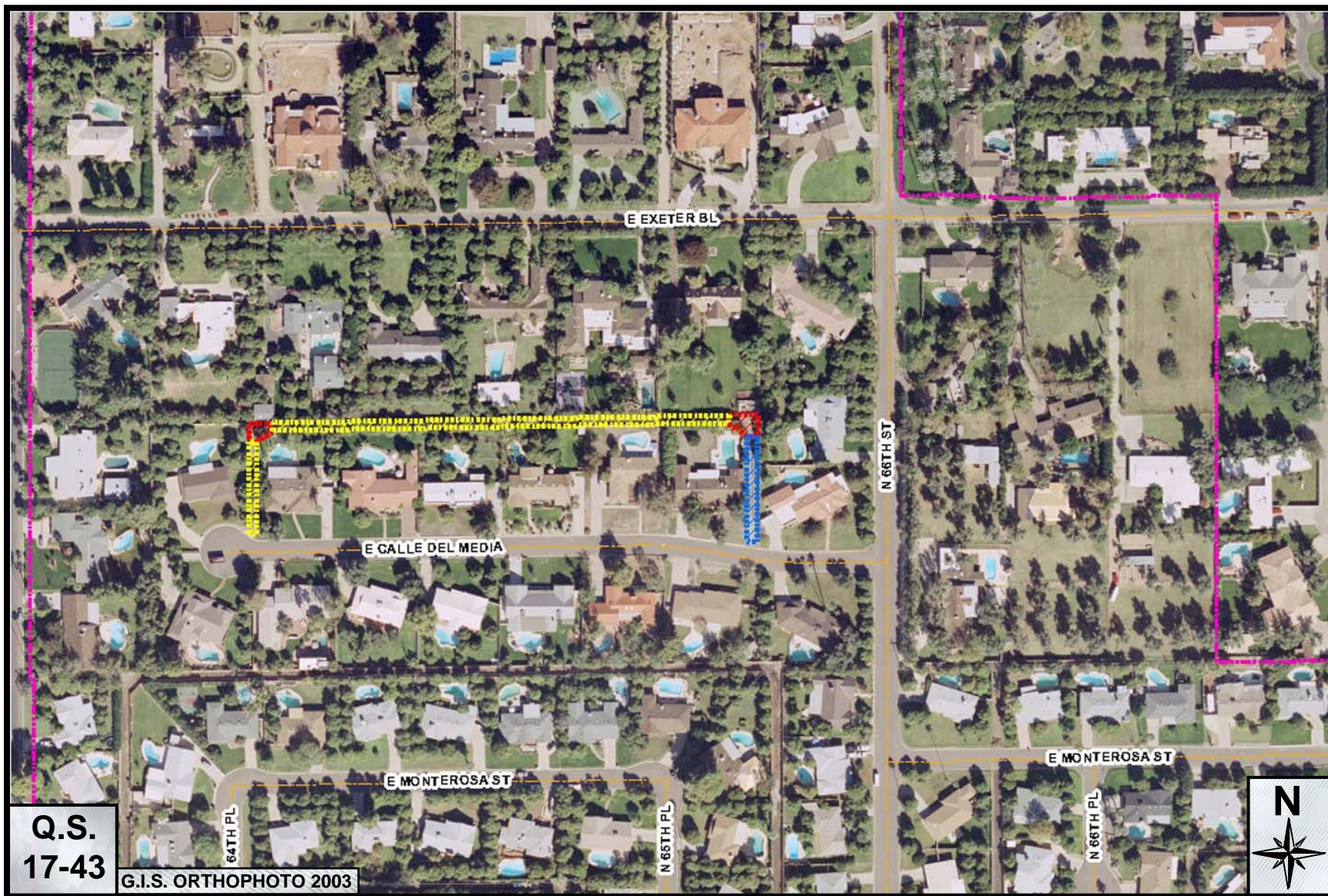
☒ Support

This request does not impact the ability to serve these properties or adjacent properties. Access for emergency services are provided along the existing public streets.

Water/Sewer Services




☒ Support

This request does not impact the ability to serve any properties in the surrounding areas.



Colaric Abandonment

Legend

-  16 Feet ROW to be Abandoned
-  12 Feet ROW to be Abandoned
-  ROW to be Abandoned




20-AB-2005

ATTACHMENT #2



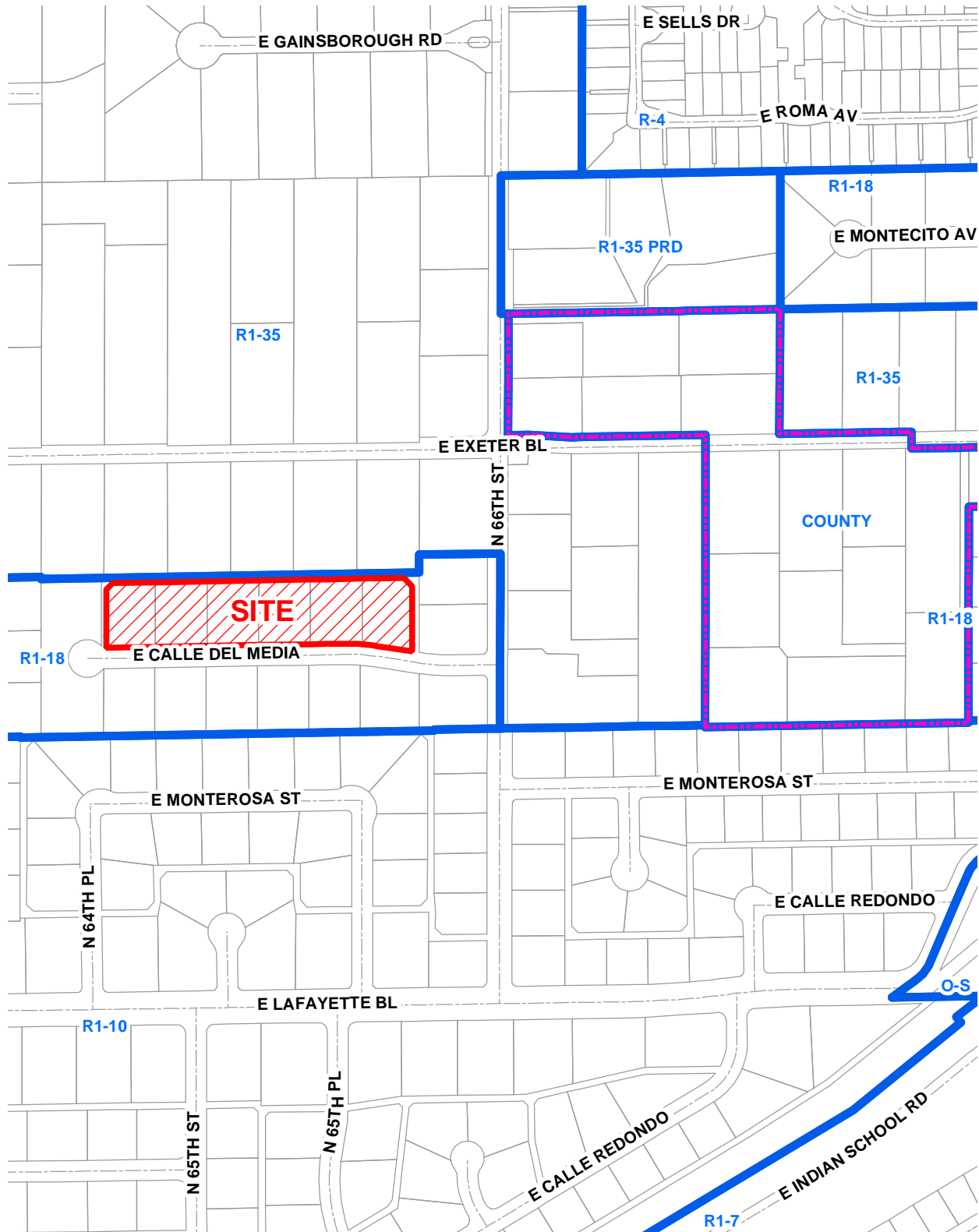
Colaric Abandonment

Legend

-  16 Feet ROW to be Abandoned
-  12 Feet ROW to be Abandoned
-  ROW to be Abandoned

20-AB-2005

ATTACHMENT #3



20-AB-2005

ATTACHMENT #4

I

LOMBARDI ESTATES

02/672258

02/672846

E EXETER BL

10051/

15' IRR. E.

15' IRR. E.

(6415)
7

(6427)
6

(6437)
5

(6505)
4

(6513)
3

(6525)
2

(6537)
1

7305/56-7

SITE

(6436)
M & B

7305/56-7

(6446)
10

(6456)
11

(6502)
12

(6512)
13

(6522)
14

(6532)
15

7305/56-7

E CALLE DEL MEDIA

**Q.S.
17-43**

VILLA ARCADIA II

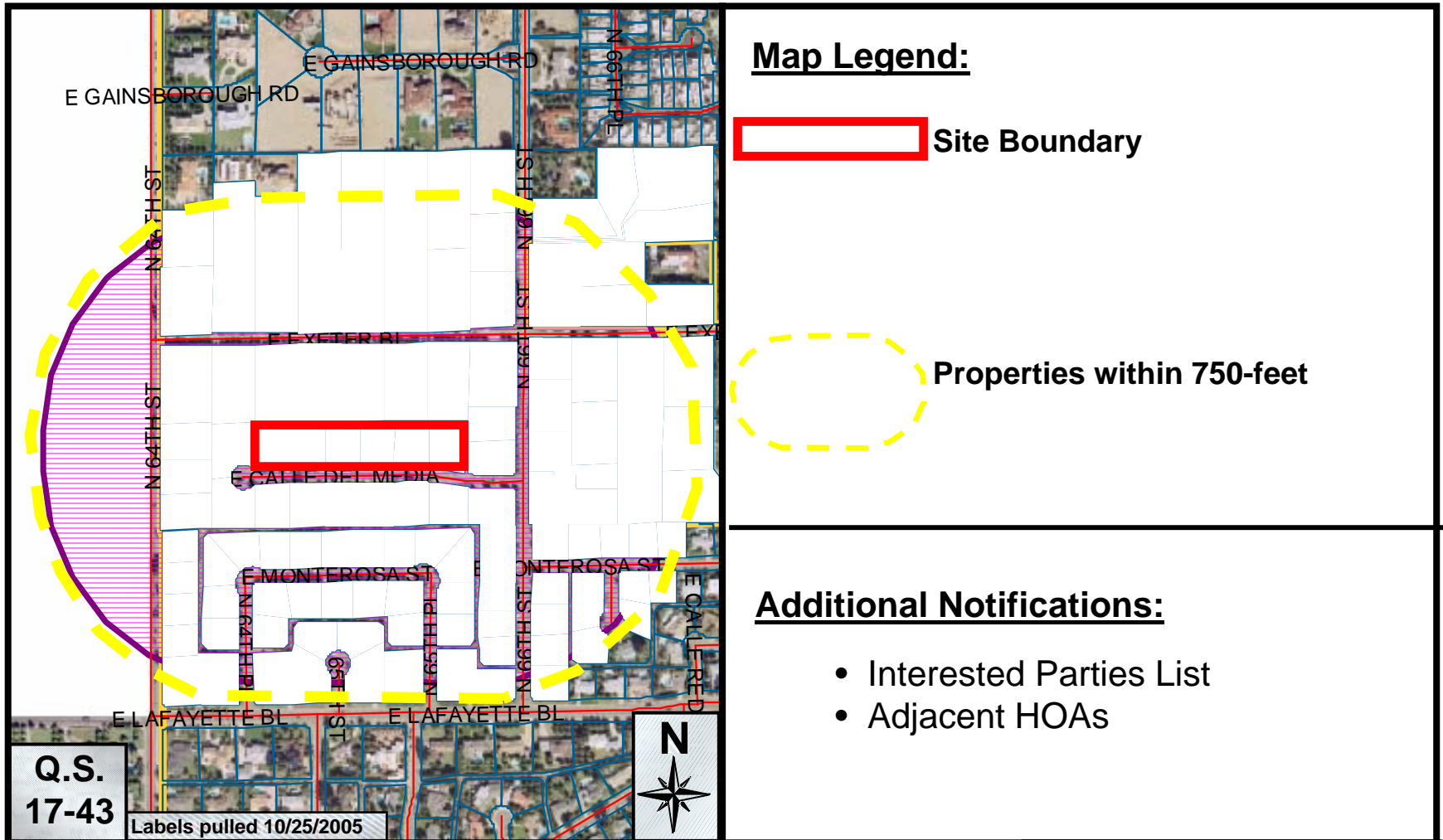


Colaric Abandonment

20-AB-2005

**Easements & Right-of-Way
Attachment #5**

City Notifications – Mailing List Selection Map



Colaric Abandonment

20-AB-2005

ATTACHMENT #6

August 30, 2005

**VIA CERTIFIED MAIL -
RETURN RECEIPT REQUESTED**

Mr. Wayne Colaric
6522 East Calle Del Media
Scottsdale, Arizona 85251

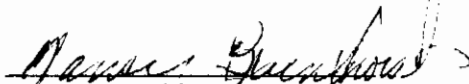
Re: Alley Abandonment

Dear Mr. Colaric:

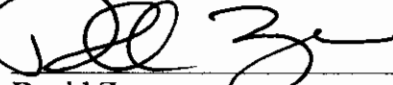
In response to your request for comments, please consider this letter written notice that the undersigned home owners who would be directly affected by the proposed abandonment of the alley located between and to the north of 6446 East Calle Del Media to 6532 East Calle Del Media do not support an abandonment of the alley.


6525 East Exeter Boulevard


Allan Brunkhorst


Nancy Brunkhorst

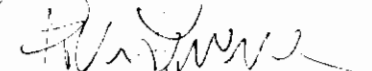
6513 East Exeter Boulevard


David Zeman

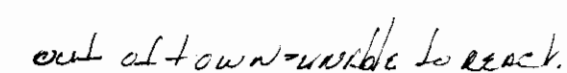

Mary Ellen Zeman

6505 East Exeter Boulevard


Jonathan Levine


Polly Levine

6437 East Exeter Boulevard



Lydia Mitchell

6427 East Exeter Boulevard


Mark Carlino


Brett Carlino

6415 East Exeter Boulevard


Shane Powell

20-AB-2005
10/25/2005

ATTACHMENT #7

Grant, Randy

From: Ken Koziol [ken@solutionsaz.com]
Sent: Wednesday, April 12, 2006 2:17 PM
To: Gray, Frank
Cc: Grant, Randy; Dolan, Jan; Manross, Mary; Drake, Betty; Ecton, Wayne; Lane, Jim; Robert Littlefield; McCullagh, Ron; Osterman, Kevin; David James Barnett; Heitel, James; Hess, Eric; Kevin O'Neill; Jeffrey Schwartz; Steinberg, Stephanie; Steinke, Steven
Subject: RE: FRANK GRAY OFFICIAL MEMO DATED APRIL 7, 2006---FACTUAL INNACCURACRIES

Mr. Gray:

I am in receipt of the official memo you drafted and sent to Mr. John Colton dated April 7, 2006 **RE: CALLE DEL MEDIA CUL DE SAC PROPOSAL FOR ABANDONMENT.**

I feel compelled to correct the record for you, members of the Planning Commission, the Honorable Mary Manross and the Scottsdale City Council:

THE ALLEY IN QUESTION IS **NOT** CURRENTLY BEING USED BY THE PROPERTY OWNER YOU ARE REFERRING TO, AND **HAS NEVER BEEN USED BY THIS OWNER** (OR, FOR THAT MATTER, ANY PREVIOUS OWNERS OF THIS PARTICULAR PROPERTY, FOR OVER 40 YEARS). **EVER.**

Furthermore, I must point out that I am a little confused by your written comments that the "proposals" you referred to "are from the property owners fronting Exeter" and that "these are not proposals from the City of Scottsdale". This is a stark departure from the position you had in my meeting with you and Randy Grant on March 21st. In that meeting, both of you repeatedly attempted to "negotiate a compromise" with us (your words), with Randy going so far as to draw out potential "compromises" on the whiteboard in your conference room, including suggesting electronic "guard gates" with private pass keys?!! The other property owner was not in attendance nor represented whatsoever at that meeting, yet "negotiations" were being attempted by you and Mr. Grant.

I question why the General Manager of the City of Scottsdale Planning & Development Services Department would act as an "agent" for a single property owner? As I stated at the meeting, your demeanor and the tone of our discussion left me with the distinct impression that you were more or less "representing" the property owner who is seeking to use our Cul de Sac "half-alley" on Calle Del Media as a personal & private driveway for his guest house, and that you displayed little compassion or ethical culpability to the needs of the 19+ homeowners & children that are affected by this.

Regards,

Kenneth C. Koziol
6511 E. Calle del Media
Scottsdale, AZ 85251
480-663-0700



Ken Koziol
President

4/12/2006



April 11, 2006

Frank Gray & Randy Grant - Planning and Development - City of Scottsdale

Subj: Abandonment Request for Un-used (legally) 12' half alley to date (since 1964)

Dear Frank & Randy,

I have been in construction since the 1960's in Arizona, performing on Design/Build Projects working with Owners, Architects, Engineers, and government agencies on permitting and constructing hundreds of Commercial and Industrial Projects. This has also included working with Owners on acquiring Real Estate properly zoned for their required uses. To date we have handled all "Variances" when required with favorable results without ever having to use legal counsel or representation.

But not so in the case of subject Alley Abandonment, because the City of Scottsdale has abdicated its prime responsibility to its tax-paying Citizens, to fairly and impartially administer its zoning codes, ordinances and regulations. We have received City turn-downs, at all levels on our Abandonment Request, without one legitimate reason why the rights of the involved Property Owners were being over-ridden by Staff People in favor of the neighboring sub-division on taking over our 12' half alley (Dedicated to the City of Scottsdale in 1964 for "Public Use" to be used for Public Utilities and other Public interests). Private vehicular use was not one of these. No vehicular use was ever intended or specified for this 12' half ally, or the 16' dead-end alley on the East Side.

Now we have an Owner, from the next sub-division, who feels he has a right to take-over our "12' Public Alley" for his use as a "Private Drive". He showed his lack of knowledge on this issue by presenting using only 10' of our 12' "Public Alley" for his 10' "Private Drive", with a "Private Gate" at Calle del Media, along with proposing to relocate our masonry walls at his expense. This is on "Irrelevant Request" for an "Illegal Use" and not an "Objection" or an "Option" to our Petition for Abandonment.

The worst part of his proposal was to leave the west 12' and east 16' as "Public Alleys". This could mean other Exeter homes could request "Public Alleys" to handle the same way by renaming as "Private Drives" — That is if they could obtain a favorable vote for these proposed "Variances"???

The meeting you presided over to try to "Compromise" a solution between neighbors was anything but, when you define the word "Compromise". There was nothing positive about it. It only exhibited the City of Scottsdale Staff's lack of knowledge and consideration for an established Cul de Sac neighborhood, and for not respecting our "Rights" as Long-Term Property Owners and Taxpayers in Scottsdale --- versus a relative "Newcomer" from a different sub-division.

Sincerely,

John G. Colton
w/ Power of Attorney For the
Calle del Media Owners' Coalition

cc: Mayor Mary Manross
Planning Committee Members

2400 South 55th Street, Suite 100 • Tempe, Arizona 85282 • Tel: 480/967-8199, Fax: 480/967-8671

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www.coltonconstructors.com

McClay, Doris

From: Ken & Shirley Johnson [hej-jay@worldnet.att.net]
Sent: Thursday, April 13, 2006 2:20 PM
To: McClay, Doris
Subject: Letter to Members of the City Planning Commission

Hi Doris

...Thank you for your help this morning.

I e-mailed a letter regarding the abandonment of the alley behind 6446-6532 E. Calle del Media. The e-mail was intended for all members of the planning commission. Out-of-date e-mail documentation resulted in some rejections.

Please be sure each member of the Planning Commission receives a copy of the following letter. Thanx.

Ken & Shirley Johnson

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April 13, 2006

To: All members of the City Planning Commission

The entire alley behind 6446 through 6532 E. Calle del Media should be abandoned and the alley returned to current and original property owners.

Our understanding is one or more residents of Exeter Boulevard desire to open the twelve foot (or less) alley for vehicular traffic. We further understand one or more residents of Exeter desire to use the subject alley as a private, rear entrance driveway. Both are in violation of existing regulations when alley configuration and other factors are considered.

We wonder about City staffers and planners that jeopardize an entire neighborhood so one individual can enjoy a private rear entrance! It seems the resident(s) along Exeter and their staff of attorneys and contractors knew (or should have known) that such access is not allowed by zoning laws, City codes, and the City's Engineering Design Guidelines.

"What is right is more important than who is right !" The integrity of Codes and Engineering Design Guidelines governing alleys (or their intent) must be upheld! We understand mistakes have been previously made in the granting of use permits. If so, good City management suggests that mistakes be corrected as quickly as possible, not allowed to fester, and not be repeated!

Our property is on the South side of E.Calle del Media and one bedroom faces the current entrance and exit to/from the alley. E. Calle del Media is a cul-de-sac. Opening of the entire alley will create undesirable nuisances and increase street traffic. Safety hazards for ourselves, children, pedestrians, bicyclists and others are inevitable as a result!.

Virtually the entire, over-grown alley is impassable as it has been abandoned for over 40 years. City laws, codes and Engineering Design Guidelines restrict alley usage! There should be no problem making the abandonment of the alley official!

We request a copy of this letter be incorporated in the next (19 Apr. 2006) Minutes of Meeting on the same subject.

Thank you!

Ken and Shirley Johnson
6531 Calle del Media
Scottsdale, Arizona
85251

Tel: 480-946-7226

McClay, Doris

From: Ken & Shirley Johnson [hej-jay@worldnet.att.net]
Sent: Friday, April 14, 2006 9:08 AM
To: Dolan, Jan; Gray, Frank; Gawf, Ed
Cc: McClay, Doris; Manross, Mary; Drake, Betty; Ecton, Wayne; Lane, Jim; Littlefield, Robert; McCullagh, Ron; Osterman, Kevin
Subject: Half-Alley Abandonment Request Behind E.Calle del Media

April 14, 2006

To: Jan Dolan and Staff

Greetings from 6531 Calle del Media. We are members of the Calle del Media Owner's Coalition supporting abandonment of subject alley. The following is our personal understanding of the current situation and not necessarily representative of the beliefs of the entire coalition.

We understand one or more residents of Exeter Boulevard plan to use the alley behind their property as a private entrance. We further understand there are problems with alley configuration, setbacks, alley encroachments, property values and definition: driveways, right of way, easement, vehicular traffic och så vidare..

The major culprits in this scenario appear to be 1.) a contractor who sold the property to a Mr. Levine, 2.) the City Planning Department who allowed certain variances to occur, and 3.) attorneys who knew, or should have known, that Codes and Ordinances, Engineering Design Guidelines and Zoning Laws for the City of Scottsdale discourage the use of the alley as intended by the resident(s) along Exeter Boulevard. The situation has been badly managed ! As a result there is a perceived arrogance toward the folks on Exeter.

In regard to Mr. Levine, we hear he is a very nice gentleman! His gorgeous, multi- million dollar house on Exeter dominates the neighborhood! In regard to his rear guest house location and rear garage, he is in an unenviable situation!

Having said all this, it is appropriate to comment on the emotional issues involved. Everyone should lighten up! Mr. Levin is not Dubai and the alley is not The Port of New York!

So much for history!

We reject any up-coming decisions that suggest pandering on the part of City Staff. Allowing one resident to jeopardize an entire neighborhood by allowing an illegal driveway (for the use of servants and the enjoyment of guests) creates, at a minimum, the illusion of pandering and should be avoided.

The situation should not be allowed to fester among neighboring communities! It will be easier to allow the abandonment of the valley now than go through the public process of creating an undesirable neighborhood thoroughfare.

Sincerely

Ken & Shirley Johnson
6531 Calle del Media
Scottsdale, AZ 85251

Tel: 480-946-7226